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*Attorneys for Defendants Charles Daniels,
Kara LeGrand, Dana Marks, and Michael Minev*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SKYLER JAMES FOWLER,

Plaintiff,

v.

NEVADA DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

Case No. 3:22-cv-00195-MMD-CLB

**ORDER GRANTING MOTION TO
EXTEND THE TIME TO RESPOND
TO PLAINTIFF'S MOTION TO
AMEND
(ECF No. 86)**

(FIRST REQUEST)

Defendants Charles Daniels, former Director for the Nevada Department of Corrections (NDOC), Officer Kara LeGrand, Dr. Dana Marks, and Dr. Michael Minev, by and through counsel, Aaron D. Ford, Attorney General of the State of Nevada, and Chris Davis, Senior Deputy Attorney General, hereby move, pursuant to Fed. R. Civ. P. 6(b) and 16(b)(4) and Local Rules IA 6-1 and LR 26-3, to extend the time to respond to Plaintiff's motion for leave to file a third amended complaint (ECF No. 86) by thirty (30) days, until **Friday, May 17, 2023**. This motion is brought based on the following Points and Authorities, the good cause set forth in the Declaration of Chris Davis, Esq., and the pleadings and papers filed in this matter.

...

DECLARATION OF CHRIS DAVIS, ESQ.

I, Chris Davis, declare under penalty of perjury that the following is true and correct of my own personal knowledge and if called to testify in this matter would testify as follows:

1. I am a Senior Deputy Attorney assigned to represent the above Defendants in this matter.

2. Counsel for Defendant has diligently attempted to complete Defendants' opposition to motion to amend prior to the April 17, 2022 deadline, but has been unable to do so. A Deputy Solicitor General resigned, who was representing the Nevada Department of Corrections (NDOC) on appeal. Additionally, two Deputy Attorney Generals have resigned, and replacements have not yet been found. Counsel has now been assigned all of the NDOC appeals and many of the cases of the two departing Deputy Attorney Generals.

3. In the last two (2) month, counsel has drafted one (1) motion for summary judgment, one (1) opposition to motion for injunctive relief, three (3) motions to dismiss, four (4) appellate briefs, as well as replies in support of motions and responses to numerous discovery requests.

4. With this increased caseload, Counsel has not been able devote the time necessary to oppose Plaintiff's third attempt to amend his complaint in this case, despite working extended hours.

5. Plaintiff has sought leave to amend for the third time, despite the fact that this Court has not yet ruled on Defendants' motion to dismiss Plaintiff's second amended complaint based on Plaintiff's failure to follow the Court's express instructions on the requirements for filing a second amendment complaint.

5. Plaintiff has also twice moved for injunctive relief, only to withdraw those motion after Counsel for Defendants expended significant amount of time opposing the motions.

6. Counsel for Defendants has therefore had to expend numerous hours addressing matters in this case only to have Plaintiff effectively concede that his filings

...

1 either lacked merit or needed to be refiled. This multiplying of proceedings has only added
2 to counsel's extensive workload.

3 7. Based on the forgoing, and due to the substantially increased nature of
4 counsel for Defendants' workload, good cause is present to grant an extension of thirty (30)
5 days, until Wednesday, May 17, 2023, to respond to Plaintiff's motion to amend.

6 DATED this 17th day of April, 2023.

7 AARON D. FORD
8 Attorney General

9 By: /s/ Chris Davis
10 CHRIS DAVIS

11 I. POINTS AND AUTHORITY

12 Pursuant to Fed. R. Civ. P. 6(b), the "court may, for good cause, extend the time . . .
13 with or without motion or notice . . . if a request is made, before the original time or its
14 extension expires." Defendants seek a first extension to respond to Plaintiff's motion to
15 amend his complaint for the third time, which is set for today, April 17, 2023. Good cause
16 is present to grant an extension of thirty (30) days to file a response.

17 Counsel for Defendants has diligently attempted to timely complete their opposition
18 to Plaintiff's motion to amend, but has simply been unable to do so, despite working long
19 hours, due to the substantial nature of his workload, the unexpected departure of the
20 Deputy Solicitor General and two Deputy Attorney General in the NDOC unit, resulting in
21 all NDOC appeals being assigned to counsel, along with many of the cases of the two
22 departing Deputy Attorney Generals. Only the perfect storm of the almost three
23 simultaneous departures has prevented counsel from timely opposing Plaintiff's motion to
24 amend.
25

26 Moreover, Plaintiff has multiplied these proceedings by filing complaints that he
27 then seeks leave to amend once tested by a motion dismiss, and by filing motions for
28 injunctive relief that he withdraws after Counsel for Defendants has expended numerous

hours opposing. Plaintiff's tactic of presenting a moving target has only increased Counsel's substantial caseload.

Additionally, Plaintiff should not be prejudiced by this short delay. Plaintiff has already voluntarily withdrawn his motion for injunctive relief (*see* ECF No. 83), for the second time, admitting he is receiving the treatment he seeks. Accordingly, Defendants respectfully request that the extension be granted for good cause. *See Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1260, (9th Cir. 2010) (holding that the "district court abused its discretion in denying party's timely motion" to extend time because the party "demonstrated the 'good cause' required by Rule 6, and because there was no reason to believe that [the party] was acting in bad faith or was misrepresenting his reasons for asking for the extension").

II. CONCLUSION

For the forgoing reasons, and for good cause appearing, the Defendants respectfully request to extend the time to respond to Plaintiff's motion to extend the time to respond to Plaintiff's motion for leave to file a third amended complaint (ECF No. 86) by thirty (30) days, until Wednesday, May 17, 2023.

Respectfully submitted this 17th day of February 2023.

AARON D. FORD
Attorney General

By: /s/ Chris Davis
Chris Davis
Senior Deputy Attorney General

Attorney for Defendants

IT IS SO ORDERED.

DATED: April 17, 2023.


UNITED STATES MAGISTRATE JUDGE